

Subpart F - Program Eligibility

515.50 General

A. All EQIP applications must meet the criteria for both producer eligibility and land eligibility to be considered for funding. The application should remain in "pending" status until the eligibility determinations are completed. Application evaluation and ranking must not occur until applicant eligibility is determined.

B. See [Title 440, Conservation Programs Manual \(CPM\), Part 512, Subpart C](#), for procedures on submitting and accepting applications and basic conservation program contract eligibility.

C. NRCS is responsible for documenting and determining both producer and land eligibility. NRCS must notify the applicant of the determination of his or her eligibility status. If the determination is made that the applicant does not meet the producer eligibility criteria or the land does not meet the land eligibility criteria, the applicant must be provided appeal rights in accordance with [7 CFR Section 614](#) and [440-CPM, Part 510](#).

D. Eligibility determinations will be made in accordance with 440-CPM, Part 515, Subpart F, and [440-CPM, Part 512, Subpart C](#). See the EQIP Eligibility Documentation Checklist found in 440-CPM, Part 515, Subpart P, for exhibits that list acceptable documentation.

- (1) The eligibility determination must be documented in the case file.
- (2) When all NRCS eligibility requirements have been met for an application, the designated conservationist must complete the "Other Eligibility" check box in the ProTracts applicant information screen.

515.51 Producer Eligibility

A. General Producer Eligibility Criteria.—To be eligible to participate in EQIP, an applicant must meet all of the following criteria:

- (1) Be a producer. To be considered a producer, the applicant must be—
 - (i) A person, legal entity, Indian Tribe, or joint operation with signature authority and
 - (ii) Engaged in agricultural production or forestry management or have an interest in the agricultural or forestry operation associated with the land being offered for enrollment in EQIP. Interest in the farming operation means one of the following:
 - Owner or renter of the land in the farming operation;
 - An interest in the agricultural products, commodities, or livestock produced by the farming operation; or
 - A member of a joint operation that either owns or rents land in the farming operation or has an interest in the agricultural products, commodities, or livestock produced by the farming operation.
- (2) Have control of the land for the term of the proposed contract period.
- (3) Be in compliance with the provisions for protecting the interests of tenants and sharecroppers, including the provisions for sharing EQIP payments on a fair and equitable basis.
 - (i) NRCS must not approve contracts with landlords who—
 - Do not give tenants and sharecroppers an opportunity to participate in EQIP.
 - Reduce the number of tenants and sharecroppers in anticipation of EQIP participation.
 - (ii) If there is a dispute between landlord and tenant or sharecropper, NRCS will not approve the EQIP contract until the landlord and tenant or sharecropper resolve their dispute.
 - (iii) Landlord and tenant or sharecropper provisions do not apply when the tenant or sharecropper—
 - Was removed for cause in accordance with State law, as determined by the Office of the General Counsel regional attorney.
 - Left the farm voluntarily without any coercion from the landlord.
- (4) Be in compliance with the highly erodible land and wetland conservation compliance provisions at 7 CFR part 12.
- (5) Be within appropriate payment limitation requirements, as specified in the Food, Conservation, and Energy Act of 2008 and in accordance with 440-CPM, Part 515, Subpart J.

Exception: Federally-recognized Indian Tribes are exempt from payment limitation requirements. The \$300,000 contract limitation remains applicable to Indian Tribes, but there is no limit on payments so an Indian Tribe could have multiple \$300,000 contracts. Individual tribal members must be within appropriate payment limitations.

- (6) Be in compliance with adjusted gross income requirements, as specified in [7 CFR Part 1400](#).

Exception: Federally-recognized Indian Tribes are exempt from adjusted gross income requirements.

B. Documenting Producer Eligibility

- (1) The applicant is responsible for providing documentation to establish producer eligibility for EQIP. The eligibility determination and applicable documentation must be filed with NRCS or FSA, as outlined in [440-CPM, Part 512, Subpart C](#). See the EQIP Eligibility Documentation Checklist found in 440-CPM, Part 515, Subpart P, for exhibits containing a list of acceptable documentation.
- (2) Applicants must be classified by a business type in the Service Center Information Management System. The eligibility requirements for each business type are outlined in the EQIP Eligibility Matrix in 440-CPM, Part 512, Subpart J, Section 512.98.

C. Determining Eligibility as a Separate Person or Legal Entity

To be considered a separate person or legal entity for the purposes of EQIP (other than a person or legal entity that is a member of a joint operation), in addition to other provisions of this section, the person or legal entity must—

- (i) Have a separate and distinct interest in the land or the agricultural, forestry, or livestock production involved.
- (ii) Exercise separate responsibility for such interest.
- (iii) Maintain funds or accounts separate from that of any other person or legal entity for such interest.

D. Eligibility Clarification

(1) Indian Tribes

An Indian Tribe may be an eligible producer if it owns or has control of the land being offered for enrollment in EQIP and meets applicable eligibility criteria in 440-CPM, Part 515, Subpart F, Section 515.51(A).

(2) Indians

An individual Indian is eligible for EQIP on Tribal or non-Tribal land if he or she meets the eligibility criteria in 440-CPM, Part 515, Subpart F, Section 515.51(A).

(3) Organic or Transitioning to Organic Producers Applying for the EQIP Organic Initiative

- (i) **Certified Operations:** Certified organic producers applying for the EQIP Organic Initiative must meet the eligibility requirements in 440-CPM, Part 515, Subpart F, Section 515.51(A) and agree to develop and implement conservation practices for certified organic production that are consistent with their USDA certified organic system plan (OSP). Organic system plans certified non-USDA groups or agencies are not acceptable.

- Certified organic producers must provide NRCS with a copy of their OSP, in accordance with the standards established in the Organic Foods Production Act (7 U.S.C. Sections 6501 to 6522) and regulations of the National Organic Program (NOP) (7 CFR Part 205) before an EQIP contract can be approved.
- When developing an EQIP schedule of operations for organic production, NRCS or the TSP will address NOP requirements in the practice design to assure that planned practices are consistent with OSP standards.
- Organic certification must be maintained for the life of the contract. The Designated Conservationist will annually determine whether the participant and operation are eligible as certified organic producers by accessing the USDA Agriculture Marketing Service Web site, <http://www.ams.usda.gov/nop>. Lists of certified and suspended or revoked operations can be found at this site for determining compliance with provisions of the NOP. The Designated Conservationist will document the certification status in the case file during the process for the required annual contract review (CPM 512.55). If organic certification is not maintained throughout the life of the contract, the contract may be subject to termination.

- (ii) **Transitioning Operations:** NRCS identifies producers pursuing organic certification as transitioning to organic. To qualify for the EQIP Organic Initiative, they must meet the eligibility requirements in 440-CPM, Part 515, Subpart F, Section 515.51(A) and self-certify that they agree to develop and implement an OSP.

- When developing an EQIP schedule of operations for organic production, NRCS or the TSP will address NOP requirements in the practice design to assure that planned practices are consistent with OSP standards.
 - Applicants must provide NRCS with the contact information of the applicant's USDA accredited organic certifying agent before an EQIP contract can be approved.
 - The Designated Conservationist will annually determine whether the participant is implementing practices consistent with an OSP. If a participant is not implementing practices consistent with an OSP, the contract may be subject to termination.
 - NRCS is not authorized to enforce the provisions of the NOP, so organic certification at the completion of the EQIP contract is not required.
- (iii) Exempt Operations: In accordance with the Organic Foods Production Act (7 U.S.C. Section 6501 to 6522), organic producers selling less than \$5,000 a year in organic agricultural products are exempt from organic certification. Exempt organic producers are eligible for the EQIP Organic Initiative and applications should be ranked with certified organic producers provided that they meet the eligibility requirements in 440-CPM, Part 515, Subpart F, Section 515.51(A) and self-certify that they agree to develop and implement an OSP.
- When developing an EQIP schedule of operations for organic production, NRCS or the TSP will address NOP requirements in the practice design to assure that planned practices are consistent with OSP standards.
 - The Designated Conservationist will annually determine whether the participant is implementing practices consistent with an OSP. If a participant is not implementing practices consistent with an OSP, the contract may be subject to termination.
 - NRCS is not authorized to enforce the provisions of the NOP, so organic certification at the completion of the EQIP contract is not required.

(4) Subsistence Producers

Producers engaged in agricultural production for subsistence purposes are eligible for EQIP if they meet the requirements of 440-CPM, Part 515, Subpart F, Section 515.51(A).

(5) Squatters or Tenants by Sufferance

Squatters or tenants by sufferance, by definition, are not eligible for EQIP because they cannot provide control of land.

(6) Minors

A minor is eligible only if he or she is legally responsible and is independently participating in the operation of the farm or ranch as an eligible individual. An adult who is legally responsible for the minor must also cosign for the minor and is responsible for all terms of the contract.

(7) Foreign Individuals and Entities

Foreign individuals and members of foreign entities are not eligible for EQIP unless they meet all the following –

- They meet eligibility criteria in 440-CPM, Part 515, Subpart F,
- Have obtained and provided a Federal tax identification number issued by the Internal Revenue Service
- They provide a substantial amount of personal labor in the production of crops in the farming operation.

E. Ineligible Entities

(1) Federal, State, county, and local governments, and political subdivisions of State government (e.g., school districts, conservation districts, etc.) and entities containing these units of government or subdivisions, are not eligible for EQIP. However, land owned by these entities may be eligible if leased to an eligible applicant. See 440-CPM, Part 515, Subpart F, Section 515.52.

(2) Agricultural support businesses, such as agricultural supply buyers and sellers, are not eligible to participate in EQIP unless they can meet all of the eligibility criteria outlined in 440-CPM, Part 515, Subpart F, Section 515.51(A).

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Subpart C - Application for Assistance

512.20 General

A. Application Forms

Form NRCS-CPA-1200, "Conservation Program Application," is available in NRCS field offices, conservation district offices, and on the Internet. Submit electronic form applications in accordance with the instructions found at [USDA Service Center Agencies Online Services](#).

B. How to Apply

- (1) Applicants must submit a signed and dated Form NRCS-CPA-1200, "Conservation Program Application," to the local NRCS office. All applications must immediately be entered into ProTracts.
- (2) Applicants must be provided a copy of the following documents:
 - (i) CPC appendix
 - (ii) Fact sheets or other materials that explain program requirements, including but not limited to information on Dun and Bradstreet Data Universal Numbering System (DUNS) requirements for applicable nonindividuals
 - (iii) Appropriate "Consent to Disclosure of Tax Information" forms, provided to all participants who are subject to adjusted gross income (AGI) filing requirements

Note: Under no circumstances are NRCS employees to collect completed "Consent to Disclosure of Tax Information" forms. Participants must return these completed forms directly to the Internal Revenue Service.

C. Certifications Required

- (1) Before NRCS can proceed, the applicant must be established in the Service Center Information System (SCIMS) and have the following certifications completed and filed at the USDA service center:
 - (i) Form AD-1026, "Highly Erodible Land Conservation and Wetland Conservation Certification"
 - (ii) Form CCC-926, "Average Adjusted Gross Income Statement"
 - (iii) Form CCC-901, "Member's Information," or Form CCC-902, "Farm Operating Plan" (for legal entity and joint operations only)
 - (iv) Signature authority for an individual requesting benefits for a legal entity or joint operation (Section 512.21, "Signature Authority for Businesses")
- (2) In accordance with Farm Service Agency (FSA) Handbook 1-CM, FSA will work with customers to gather additional information, if needed to complete the SCIMS record. Using that information, FSA will establish the specific business type for the joint operation or legal entity. Joint operations exist where each member or partner shares direct liability or responsibility for the partnership. For joint operations, the eligibility information of each individual is transferred to the joint operation identification.
- (3) Entities differ from joint operations. Refer to the individual program eligibility matrices for details. (See Subpart J, Exhibits)

Note: The participant must complete and file all documents necessary for FSA to process and determine farm and tract eligibility. If customers have previously provided business information on Form CCC-902, "Farm Operating Plan," to establish eligibility for participation in other USDA programs administered by FSA, it is not necessary to collect duplicate information with Form CCC-901, "Members Information." If these certifications are not available, NRCS will advise the applicant of additional filing requirements using the program eligibility certification letter found in Section 512.91. The application should remain in "pending" status until these certifications are completed and processed by FSA. Application evaluation and ranking should not occur until applicant eligibility is determined.

D. Review of Applications

The designated conservationist must review applications for completeness and consistency with individual or business information maintained in the SCIMS before recording applicant data in ProTracts. Applications will be serviced on the basis of the signup and evaluation cutoff dates, the Application Evaluation and Ranking Tool (AERT) criteria determined for each program, the availability of program funds, and other requirements, as specified for the program.

512.21 Signature Authority for Businesses

A. Authorization for Joint Operations and Entities

Each joint operation or legal entity must authorize someone to act on its behalf to sign the application, contract, payment request, or other administrative documents. FSA has agreed to give NRCS a copy (upon request) of all documents supporting existing legal entity or joint operations currently on file at the service center. Form CCC-501, "Member's Information," and Form CCC-502, "Farm Operating Plan for Payment Eligibility Review," provide a list of entity members but do not establish signature authority for the business in and of themselves.

B. Signatory Verification

- (1) NRCS will accept any of the following to verify an authorized signatory for a joint operation, legal entity, or unit of government:

- (i) A copy of the corporate charter, bylaws, court orders of appointment, trust agreement, last will and testament, articles of partnership, or other legal documents clearly designating who has signature authority for the legal entity. Where specific signatory authority is not provided in the entity documents, all members must sign the contract documents or a power of attorney (POA) designating an individual to act as the attorney-in-fact or agent for the joint operation or legal entity.
- (ii) Appropriate delegation from a State or local government official having legal authority to obligate a unit of government. This may be in letter form on official letterhead. If the authority is being delegated to a subordinate, the delegation letter must also include the original signature of the designee accepting the delegation.
- (iii) Self-certification for members of businesses and legal entities operating with an employer identification number (EIN), as indicated on Form CCC-902E, "Farm Operating Plan, for an Entity 2009 and Subsequent Program Years," or Form CCC-901, "Member's Information 2009 and Subsequent Years," as applicable. Only members selected on these forms will be considered authorized to sign for the business or legal entity. If they request that an individual other than an authorized member be granted authority to act as an attorney-in-fact on their behalf, they may grant this authority by executing a Form FSA-211, "Power of Attorney."
- (iv) An informal joint venture operating without an EIN may be a CPC applicant but may not receive payments. Members are paid directly under their individual identification numbers. Therefore, all members of the informal joint venture must be signatories to the contract for their individual interest. An agent for the informal joint venture may be designated on Form FSA-211, "Power of Attorney," if signed by all members. However, this delegation of authority to sign on behalf of the informal joint venture is only for the joint venture's interest and does not extend POA authority for the individual members. If they request that an individual be granted authority to act as an attorney-in-fact on their behalf, they may grant this authority by executing a separate Form FSA-211, "Power of Attorney."

Note: Form CCC-901 or CCC-902E only document signature authority for legal entities. All self-certifications of signature authority for legal entities on Forms CCC-901 or CCC-902E are subject to verification by supporting documents. By definition of an informal joint venture, no such records exist.

- (2) NRCS will accept the following POA documents executed for programs and years:
 - (i) For EQIP contracts obligated before October 1, 2005, a POA filed with FSA using Form FSA-211, "Power of Attorney," that provides signature authority for all administrative actions.
 - (ii) For all NRCS program contracts obligated in 2009 and earlier, a notarized POA on Form NRCS-CPA-009, "Power of Attorney," that provides signature authority for an individual to represent another individual, an entity, or joint operation for all administrative actions associated with a program application or contract (see Section 512.90, "Summary of Forms Used").
 - (iii) For all NRCS program contracts obligated in 2009 and later, a Form FSA-211, "Power of Attorney," witnessed by an FSA employee or notary public, which specifically provides signature authority for NRCS programs.

Note: Under 7 CFR Part 718, spouses may sign on behalf of one another without a POA for the purposes of specific FSA programs. This authority does not extend to NRCS programs.

C. Local FSA Office Requirements

The local FSA office may require additional identification or signature authorities from an NRCS program applicant before processing Form AD-1026, "Highly Erodible Land Conservation and Wetland Conservation Certification"; Form CCC-526C, "Payment Eligibility Average Adjusted Gross Income Certification for Certain Conservation Program"; or Form CCC-926, "Adjusted Gross Income," and Form CCC-901, "Member's Information."

512.22 Eligibility

A. Who May be Eligible

- (1) A contract may be entered into with one or more participants having control of a land unit for the contract period. The word "control" means possession of the land by ownership, written lease, or other legal agreement. The participant will self-certify control of the land unit and relationship (owner, operator, or both) on Form NRCS-CPA-1200, "Conservation Program Application," at the time of application. If the applicant is a tenant, the applicant must obtain written evidence or assurance of control from the landowner prior to contract obligation. Self-certifications will be reviewed and verified in the year of fund obligation, as directed in section 512.55 of this manual.
- (2) A minor is eligible only if legally responsible and independently participating in the operation of the farm or ranch as an eligible individual. A parent or legal guardian must also be signatory to the CPC. (See 7 CFR Part 1400.)

(3) A foreign person who is providing land, capital, and a substantial amount of personal labor in the production of crops may be eligible if he or she meets all other program eligibility requirements. (See 7 U.S.C. Section 1308-3.)

B. Applicant's Status

The applicant will self-certify whether he or she is a limited-resource producer, beginning farmer or rancher, or socially disadvantaged farmer or rancher, as appropriate for the program. All members of a legal entity or joint operation must meet the requirements for the application to qualify for limited-resource or beginning farmer or rancher status. Definitions are available on the NRCS Web site at <http://www.lrftool.sc.egov.usda.gov/>. Applicants who self-certify as a limited-resource farmer or rancher may also utilize this Web site to access the self-determination tool. Applicants who self-certify limited-resource producer, beginning farmer or rancher, or socially disadvantaged farmer or rancher status, are required to provide NRCS adequate documentation in support of that request prior to submission of the application in that fund pool. Due to the personal information required, NRCS employees will not complete the determination tool for applicants.

- (i) NRCS employees may become CPC participants and receive payments. However, they must follow the ethics guidance contained in [Title 110, General Manual \(GM\), Part 405, Subpart G, "Employee Participation in NRCS Programs."](#)
- (ii) Conservation district employees are subject to the ethics requirements specified in the approved cooperative working agreement between NRCS and the conservation district.

C. Other Eligibility

Land and applicant eligibility verified manually is identified on the ProTracts "participant information" screen as "other eligibility." Each conservation program has specific requirements that are contained in the respective program regulation or program part of Title 440, Conservation Program Manual (CPM). Web links for program eligibility requirements are in Section 512.106, "Summary of General Program Eligibility."

D. Basic Eligibility Requirements

Basic eligibility requirements include the following:

- (i) A person who is determined ineligible for USDA program benefits under the Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) provisions of the Food Security Act of 1985 may not participate in applicable programs or receive any payments for the crop year that the person is found ineligible and, for HELC, all subsequent years that the person remains ineligible. For violations of the WC provisions, a person will not be eligible to participate or receive benefits for the year of the conversion and all subsequent years. ProTracts will verify this determination before contract obligation, changes by a modification, and before each payment.
- (ii) People or legal entities are not eligible to receive program payments if their average adjusted gross income (AGI) exceeds certain amounts specified in the authorizing statute or regulation. The Chief may, on a case-by-case basis, waive the AGI limitation when necessary for the protection of environmentally sensitive land of special significance. See required documentation in Sections 512.113 to 512.115 of this manual. Any payment issued to a legal entity, general partnership, or joint venture that has members who do not meet the AGI requirement will be reduced by an amount that is commensurate with their direct or indirect ownership interest. Previously ineligible applicants may reapply in subsequent years if their income status changes. An eligibility determination is required before the application is promoted to "eligible" status and verified at contract obligation. Once the contract is obligated, AGI will not be reevaluated during the term of a contract unless there is a change in contract participants or legal entity membership.
- (iii) Producer eligibility requirements must be verified in ProTracts prior to an application's being promoted from "pending" status to "eligible." ProTracts will use the SCIMS business type to test the eligibility records for HELC, WC, and AGI compliance using the FSA subsidiary Web service, and payment limitations and other eligibility through the NRCS fund manager processes. Refer to Section 512.111, "Program Eligibility Matrices for Individuals, Entities, and Joint Operations," for program-specific eligibility matrices.
- (iv) Applicants must comply with the provisions for protecting the interests of tenants and sharecroppers, including the provisions for sharing payments on a fair and equitable basis. Consent must be obtained, in writing, from each identified tenant or sharecropper before excluding them from a contract to ensure that all parties having a share in the agricultural operation receive equitable treatment. This determination is applicable before contract obligation and to all owner or operator changes during the term of the contract.